IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 213 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RABARI ALABHAI VIRABHAI

Versus

RABARI NARANBHAI NANNUBHAI

Appearance:

1. Civil Revision Application No. 213 of 1997

MR PJ KANABAR for Petitioner No. 1

M/S THAKKAR ASSOC. for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 03/03/2004

ORAL JUDGEMENT

The petitioner is the original plaintiff of Regular Civil Suit No.61 of 1996 which is pending in the

Court of the learned Civil Judge (J.D.) at Mahuva. In the said suit application below exh.5 was filed by the petitioner, which was rejected by the learned Civil Judge by his order dated 19th August 1996. The said order was challenged by the petitioner by way of filing Civil Misc. Appeal No.155 of 1996 in the court of the learned District Judge at Bhavnagar. The appellate Court also dismissed the said appeal. Being aggrieved with the judgements and orders of the courts below the petitioner has filed this revision application under Section 115 of the Civil Procedure Code.

2 Since this revision application is filed against an interlocutory order, the same is not maintainable in view of the amendment made in Section 115 of the Civil Procedure Code. Hence, the same is rejected on the ground that the same is not maintainable. It will be open for the petitioner to file a substantive petition under Article 227 of the Constitution of India. It is clarified that this Court has not expressed any opinion on meriits. The C.R.A. is not entertained only on the ground of its maintainability and the same stands disposed of as not maintainable. Rule is discharged with no order as to costs.

3 At the request of the learned advocate Mr Kanabar, the interim relief is ordered to be extended till 20th March, 2004.

(P.B. Majmudar, J.)
*mohd